

REMARKS

In paragraph 1 of the Office Action, the drawings were objected to under 37 CFR§1.83(a) as not showing every feature of the invention specified in the claims. The element that was identified as the missing element was the open structure of the bottom end allowing the container body to be coupled to a vial or tube or which can be blow molded into a vial or tube.

Reconsideration of this objection is requested.

A proposed new Fig. 4 is attached to this Amendment. The proposed new drawing shows a phantom line which clearly depicts that the bottom of the depicted assembly is open. For these reason, it is requested that the new drawing be approved and the objection be withdrawn.

In paragraph 2 of the Office Action, the absence of an Abstract was noted by the Examiner. An Abstract in compliance with 37 CFR§1.72(b) on a separate sheet of paper is attached to this Amendment. For this reason, it is requested that this ground of rejection be withdrawn.

In paragraph 4 of the Office Action, claims 3 and 4 were objected because of informalities in theses claims. The Examiner's proposed changes have ben incorporated in the newly presented claims and it is requested that this ground of objection be withdrawn.

In paragraph 5 of the Office Action, claim 6 was objected to as being an improper multiple dependent claim. Claim 6 has been canceled and this ground of objection has been rendered moot.

In paragraphs 7 and 8 of the Office Action, claims 3 and 4 were rejected under 35 U.S.C.§112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the invention and under the second paragraph of 35 U.S.C.112 as being indefinite. The specific reason for the rejection was that

there was no disclosure of a how the container is coupled to a vial or tube via an open end of the container body (claim 3) and how the container body is blow molded to form the vial or tube (claim 4).

Reconsideration is requested.

Claims 1-7 have been canceled and new claims 8-12 have been added by this Amendment. Claim 12 points out the substance of former claims 3 and 4. The present disclosure enables those who are skilled in the art to make and use the invention as defined by those claims. This is all that the enablement portion of Section 112 requires. Those who are skilled in this art can readily make a tube or vial type container by blow molding a parison which is placed in register with the closable top part at an open bottom portion of a closable top part. New Fig. 4, which is attached to this Amendment, makes it clear that the container body as claimed in claim 3 has an open bottom that can be coupled to a parison for blow molding a tube or vial. For these reasons, it is requested that this ground of rejection be withdrawn.

Claims 1-2 were rejected over Rapchak et al. in view of Weiner; Claims 1-2 and 7 were rejected over Mueller in view of Weiler; Claims 1-2 and 5 were rejected over Pehr; and Claims 1-4 were rejected over Pehr in view of Weiler.

Claims 1-7 have been canceled and new claims 8-13 have been added to distinguish the claimed invention from the cited references.

New claim 8 points out that the gasket is made of a second material different from the first material which forms the container body, the covering element and the gasket being made by bi-injecting the first and different second materials thereby providing a single piece container body, covering element and sealing gasket container assembly. This means that the cosmetic product container comprises a sealing gasket, which is made from a material different from that of the container body proper, for example a softer material, to better provide sealing features: moreover the sealing gasket is integral with the container body and does not require a

separate step for assembling and fitting the sealing gasket to the container body. This feature represents a great reduction in the cost of making the container and assembling the closure.

Rapchak et al. disclose an angular sealing member 29 which is not a separated sealing member but is a sealing formation associated to a flange of the container. The flange and container are made of the same material and the sealing member 29 cannot have better sealing properties than those of the material forming the container itself.

Weiler et al., on the other hand, discloses the use of a sealing gasket which is not formed integrally with the container body and must be specifically fitted to the container body in a separate coupling and fitting operation. The sealing gasket disclosed by Weiler et al. is not integrally made with the container body in a bi-injecting molding process.

These same observations also are true for Mueller which discloses a separated gasket which is not integral with the body of the container. The patent to Pehr discloses sealing member which is not integral with the container body but is a separated sealing member that is fitted to the container body in a separate assembling and fitting step.

None of the other documents cited by the Examiner teaches or addresses the novel feature of new claim 8 herein enclosed.

New claim 9 recites the further feature of Applicant's invention that Applicant's cosmetic product container directly defines a jar container 2 having an integral gasket of a material different from that of the container.

None of the prior art documents teaches such a jar container having an integral gasket of the material different from that of the jar container. Accordingly, it is respectfully submitted that also new claim 9 should have patentable merits over the prior art documents.

New claim 10 recites now the further feature of Applicant's invention that the container body defines a blow-molded vial or tube container having an integral gasket of the

material different from that of the blow-molded container.

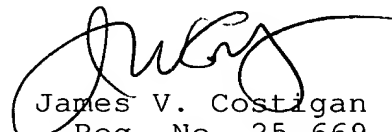
Also the features of this new claim 10 are neither disclosed nor addresses by any of the prior art documents. Accordingly, it is further respectfully submitted that also new claim 10 should be allowed.

Finally, new claim 11 and 12 recites the features of Applicant's method for making cosmetic product container according to new claim 8. This method basically comprises the steps of bi-injecting two different materials to form an integral container body and gasket body which gasket body is made of a material different from that of the container body: in this connection it should be apparent that the container and gasket are simultaneously formed by injection and, accordingly, it is not necessarily to fit to the container a separate gasket in an expensive fitting and assembling step.

It is respectfully submitted that also new claims 11 and 12 are patentable over the prior art documents since none of the prior art documents discloses the characterizing feature of such a method.

An early and favorable action is earnestly solicited.

Respectfully submitted,


James V. Costigan
Reg. No. 25,669

MAILING ADDRESS:

HEDMAN & COSTIGAN, P.C.
1185 Avenue of the Americas
New York, NY 10036-2601
(212) 302-8989

Marked Up Copy Of Amendments To Specification

IN THE TITLE

Cancel the title and add the following new Title:

[COSMETIC PRODUCT CONTAINER & METHOD FOR MAKING IT]

SINGLE-PIECE COSMETIC PRODUCT CONTAINER AND METHOD FOR MAKING
IT